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Problems with the “One Country, Two Systems” Model in Hong Kong

Jake Towne¹

One Country, Two Systems Background

Hong Kong became a part of China on July 1, 1997, under the One Country, Two Systems doctrine of the late Deng Xiaoping. There are many different interpretations of the history preceding the handover, and it is important to understand them since these legacies from Hong Kong’s history still influence the current situation. After explaining these, I will discuss the current political structure of Hong Kong and then pinpoint certain problems I see within the government. I will conclude with a short synopsis of what I think needs to be done in Hong Kong’s future.

At the conclusion of the Opium Wars in 1842, China ceded Hong Kong Island in perpetuity to the British. In 1898 the British obtained a 99-year lease on the New Territories, which consisted of 365 square miles on the mainland and the 235 surrounding islands. (Gamer, pp. 146-47) However, in 1997 this lease expired, and they were obliged to return the New Territories to China. Although in theory Britain could have retained the ceded-in-perpetuity Hong Kong Island and Kowloon,² this was not practical. These areas were completely dependent on the New Territories for food and water, and they were far too integrated with the rest of the city. Furthermore, the British risked local upheaval and international disdain. (Patten, “East and West...,” pp. 4-5) The Joint Sino-British Declaration of 1984 was written to disarm this future crisis and guaranteed Hong Kong an “open and plural” society with its own

¹ I would like to thank Dr. J. Richard Aronson, Dr. David Pankenier, and Dr. Robert Thornton for their help and advice while writing this paper.

² British hostilities did not end until 1860 when Britain received a lease on Kowloon, a district on the mainland directly across from Hong Kong Island that was large enough for barracks. (Gamer, pp. 146-47)

institutions, laws, and freedoms for 50 years before the Chinese take complete control. (Bueno de Mesquita et al.)

It is easy to appreciate the differing versions of Hong Kong's history presented by each side. The British view was that their superb colonial rule transformed Hong Kong from a barren island into a flourishing city. On the other hand, China heard the handover as a trumpet call heralding the end of a shameful history of oppression and humiliating treaties by foreign powers. (Mathews, Shiu) Many Chinese even believed that the British were going to run away with as much money as possible and leave Hong Kong a dried-out husk, like the stripping of Macao by Portugal. Both views, of course, are colored by self-interest and do not take into account the other's viewpoints.³

Deng Xiaoping's brilliant idea of One Country, Two Systems has precedent in fairly recent Chinese history. On May 23, 1951, the Chinese government signed the Agreement on Measures for the Peaceful Liberation of Tibet. This agreement gave the Tibetan people the "right of exercising national regional autonomy" and promised that it "will not alter the existing political system in Tibet... [or] the established status, functions, and powers of the Dalai Lama." The document also stated that "the religious beliefs, customs, and habits of the Tibetan people shall be respected." (Richardson, pp. 290-93) Although Hong Kong's situation is radically different, it is easy to see how the Basic Law of 1990 similarly delivers promises of a "high degree of autonomy" and of preserving the "previous capitalist system and way of life" for 50 years. (Basic Law, Preamble) One Country, Two Systems is not a new idea; only the term is new.

³ How do the people of Hong Kong see their history and their own identity? This is a complicated question that can best be answered by reading the published works of Michael DeGolyer and others of the Hong Kong Transition Project, whose work continues today at www.hkbu.edu.hk/~hktp/.

Another important fact to keep in mind is that the ruling party of China, the Chinese Communist Party (CCP), is currently engaged in a reunification drive. The Hong Kong handover is an important part of the CCP's efforts to reunify China, with President Jiang Zemin calling the handover the "first step in the long process of the great undertaking of the motherland's reunification." (Gilley) The reunification drive has much popular support both on the mainland and among Chinese overseas. However, the ulterior motive may be that the CCP is trying to focus the populace on this external and national-pride-building issue as it confronts and solves internal dissent and other structural, political, and economic problems.⁴ Interestingly enough, many of the 7 million inhabitants of Hong Kong have roots in China, which they or their parents fled as refugees after the communist victory in 1949.

Martin Lee, a prominent and outspoken member of Hong Kong's Legislative Council (LegCo), believes Deng saw the vibrant city and invented One Country, Two Systems to help Hong Kong and China prosper jointly. (Lee) Deng recognized that the industrialization of Guangdong was taking place due to the proximity of Hong Kong as a seasoned interface to the rest of the world and saw the mutual benefit for both countries. Furthermore, people in China and Hong Kong can point to their respective parts of One Country, Two Systems and feel proud. (Tam)

The handover itself was quite tranquil, but some prior events were not nearly as smooth. The Tiananmen incident had heightened fears for a time after 1989 and some moves prior to the handover, such as the dissolution of the LegCo and changes made to both the Bill of Rights and

⁴ The ultimate goal of the CCP is to annex Taiwan as well. It has made many overtures, including an offer in 1981 that suggested that Taiwan become a special region of China with its own government and armed forces. (Gamer pp. 154-59) A main factor driving China to ensure that the acquisition of Hong Kong is successful is the thought of Taiwan following suit. China certainly has much to lose if Hong Kong's economic strength weakens, not least as regards China's own prospects for economic development; but politically there is much at stake as well. The current leader of Hong Kong, Tung Chee-hwa, seems to have bought into this pro-China view as well. As he has said, "The ultimate reunification of the country is the wish of all Chinese people. Anything HK can do, or I can do personally, to help in that process I would be very happy to do." (Leahy)

the Public Order Ordinance, left the public wary. Business in Hong Kong has gone on as before, and ex-patriates have seen a totally smooth business transition. (Sweeney) Overall, China was extremely careful not to overtly interfere in the affairs of Hong Kong in the early post-handover years.

The Current Political Structure of Hong Kong

Hong Kong's merging into China requires an unconventional style of government. For instance, to travel from China to Hong Kong requires a permit, but a resident of Hong Kong can travel freely around the world. The two countries have separate currencies, and Hong Kong's currency is actually pegged to that of another country! China and Hong Kong do not share the same official languages, and to call Beijing from Hong Kong requires an international dialing code. There is a vast difference between the countries in terms of human rights and what citizens are allowed to protest. (Fenby, pp. 57-59) The structure of Hong Kong's government is also vastly different from China's.

The Basic Law was written in 1990 to build a political framework and became effective immediately upon the handover. The Basic Law delineates three branches of government: the Chief Executive, the Legislative Council (LegCo), and the Judiciary.⁵ I will briefly describe each branch's duties and how people are chosen to serve in each branch. Also, as will be seen below, the Chief Executive holds enormous power relative to the other two branches of government.

⁵ Other major parts of the government include the Executive Council, which is a cabinet of experts who assist the Chief Executive, and the large civil service, an enduring link to Hong Kong's British colonial past.

The Chief Executive

The Chief Executive is elected for a five-year term and may not serve for more than two consecutive terms. A 400-member Selection Committee chose the first Chief Executive, Tung Chee-hwa, in 1997. Table 1 shows the composition of this committee. Another committee, the Preparatory Committee, handpicked by the Chinese National People's Congress (NPC), chose the Selection Committee. This Selection Committee nominated and recommended the candidate to the Central People's Government of China (CPG). It is important to note that the CPG actually appoints the Chief Executive.

Table 1
Composition of the Selection Committee for the 1997 Election

Composition Description	Number of Members
Industrial, commercial, and financial sectors	100
The professions	100
Labor, grass-roots, religious, and other sectors	100
Former political figures, deputies to the Chinese NPC, and representatives of Hong Kong members of the National Committee of the Chinese People's Political Consultative Conference	100

Source: Decision of the National's People Congress on the Method for the Formation of the First Government and the First Legislative Council of the Hong Kong Special Administrative Region

The second Chief Executive, Tung Chee-hwa once again, was elected in 2002. This time an Election Committee of 800 members nominated the candidates. Each member was allowed only one nomination, and 100 nominations were needed for a candidate to be eligible to stand for the election, so the maximum possible field was eight candidates. Table 2 depicts the makeup of this committee.

The method of choosing the Chief Executive in 2007 remains unclear, and no specific course has been chosen yet. However, the Basic Law states that "the ultimate aim is the selection of the Chief Executive by universal suffrage upon nomination by a broadly

Table 2
Composition of the Election Committee for the 2002 Election

Composition Description	Number of Members
Industrial, commercial, and financial sectors	200
The professions	200
Labor, social services, religious, and other sectors	200
Members of the LegCo, deputies to the NPC, and representatives of Hong Kong members of the National Committee of the Chinese People's Political Consultative Conference	200

Source: Method for the Selection of the Chief Executive of the Hong Kong Special Administrative Region

representative nominating committee in accordance with democratic procedures” and also calls for “gradual and orderly progress” towards this goal. (Article 45(2)) At the end of the second term, one-fifth of the Hong Kong Special Administrative Region’s (HKSAR) 50-year life span will have elapsed, and the resolution of how the next Chief Executive will be selected or elected is greatly anticipated and crucial to Hong Kong’s future. Will universal suffrage be granted, or will even larger committees continue to choose the head of the Hong Kong government?

Some of the Chief Executive’s duties include the following:

- To decide on government policy and carry out the Basic Law and other laws;
- To nominate, report, and recommend the removal of most high-ranking officials to the CPG;⁶
- To appoint or remove judges of the courts at all levels;

⁶ The Chief Executive nominates a multitude of high-standing officials that include the Chief Secretary and the Financial Secretary, the second and third most powerful individuals in Hong Kong’s government. However, the Chief Executive merely *nominates*; he does not *appoint*. The Central People’s Government of China appoints all these officials. (Basic Law, Article 48(5)) Therefore, the Chief Executive must choose individuals whom the CPG approves. Depending on Beijing for the selection of top personnel confounds the very definition of autonomy, or the right to self-government and independence.

- To approve any introduction of motions regarding revenues or expenditures before the LegCo can hear the motion, and to sign or refuse bills and budgets passed by the LegCo.⁷

The LegCo

Members of the LegCo are elected for four-year terms, except for the first post-handover council whose term lasted for two years from 1997 to 1999. Once again, the Basic Law states that “the ultimate aim is the election of all the members of the legislative council by universal suffrage.” (Article 68(2)) Table 3 below outlines the LegCo’s makeup.⁸

Table 3
Composition of the LegCo, 1997-2007

Composition Description	1997-1999	1999-2003	2003-2007
Members returned by functional constituencies	30	30	30
Members returned by the Election Committee	10	6	0
Members returned by geographical constituencies through direct elections	20	24	30

Sources: Decision of the National’s People Congress on the Method for the Formation of the First Government and the First Legislative Council of the Hong Kong Special Administrative Region; Annex II: Method for the Formation of the Legislative Council of the Hong Kong Special Administrative Region and Its Voting Procedures

As can be seen from the table, the number of directly elected seats will rise to 50 percent of the total in 2003. Once again, it has not been decided how the LegCo will be chosen after 2007. Will all the seats be directly elected, or will the number of seats controlled by the functional constituencies slowly decline?

⁷ If the Chief Executive chooses to veto a bill from the LegCo, and if the bill survives by a two-thirds majority, the bill must be signed within a month. If the Chief Executive refuses to sign the bill the second time, or if the LegCo refuses to pass a budget or if the LegCo refuses to pass a budget or another “important bill introduced by the government,” the Chief Executive may dissolve the LegCo. (Basic Law, Articles 49 and 50)

⁸ The functional constituencies mentioned in Table 3 are professional voting guilds where a select few people are eligible to vote for each seat in a disproportional manner.

The responsibilities of the LegCo are to enact, repeal, or amend laws, and to approve budgets, taxation, and public expenditures introduced by the government.⁹ Other duties are to raise questions on the work of the government, to debate public issues, to discuss the policy addresses of the Chief Executive, and to handle complaints from residents. LegCo also has the power to start an attempt to impeach the Chief Executive.

The Judiciary

According to the Basic Law, the judges of every court of the HKSAR are appointed or removed by the Chief Executive. LegCo is supposed to endorse each appointment or removal. These judges hear and decide the cases of the region. The Basic Law created the Court of Final Appeal with the power of final adjudication. This court and its Hong Kong location (rather than in Beijing) is a step away from its colonial history and a major sign of the region's autonomy.

Problems with the Government Structure

LegCo

Now that I have briefly introduced the parts of Hong Kong's government, I will discuss problems within the structure. Under the Basic Law, any bills related to government policy, public expenditure, political structure, or government operations must be pre-approved by the Chief Executive before their introduction. This severely limits the LegCo in what bills it can introduce and leads to a limited scope for actual policy creation in Hong Kong. Many people within the government believe that the LegCo has only the power to speak out but no actual or legal power to make policy. (Chiu) Worse, since the LegCo is not responsible for introducing bills on government policy, public expenditure, political structure, or government operations, it

⁹ A bill may be initiated by any council member except for those bills related to government policy, public expenditure, political structure, or government operations which must be pre-approved before their introduction. (Basic Law)

seems that it “can take free shots with no responsibility to deliver.” (Gillies) Without more responsibility to decide and debate, the LegCo in some areas is at best a public forum.

Some pre-handover political maneuvers involving the LegCo caused some dissatisfaction among the residents of Hong Kong. The last legislative council elected under British rule was completely removed by China in favor of a provisional legislature. The former governor, Christopher Patten, even complained that this provisional legislature did not dare to meet in Hong Kong but instead held all its meetings in China. (Patten, “Farewell...,” p. 38) The people of Hong Kong made their feelings well known on this matter. A storm of almost 1.5 million voters¹⁰ turned out for the first LegCo election under Chinese rule. (Ching, p. 20) Their united rallying cry was for an entirely directly elected LegCo in 2000 and a directly elected Chief Executive in 2002. Parties with platforms calling for governmental change won two-thirds of the twenty available seats. (Gamer, p. 153) However, Christine Loh still laments that Hong Kong people have “many freedoms but not yet the ability to change and choose their government.” (Loh, p. 50) Even today, many opposing groups regard pro-democracy LegCo members as troublemakers, although it is clear that the populace wants at least a few democratic rights, such as fully electing the head of their government and their representative body. In addition, LegCo needs more power to initiate legislation and policies. Emily Lau writes:

It’s about time we admit that the political system is unsustainable. It not only spawns aggression and deadlock, but drains Hong Kong of the impetus and enthusiasm that is necessary to propel the community forward. (Lau)

The impetus and enthusiasm that Lau mentions has historically been vital to Hong Kong’s success. It is important that Hong Kong find some way to end the deadlock between the Chief Executive and LegCo, and perhaps increase the LegCo’s responsibilities.

¹⁰ At the time, this was over 53 percent of the total number of all registered voters and took place on May 24, 1998. The turnout was even more impressive considering the horrendous weather conditions that day.

Chief Executive

In February 2002, Mr. Tung was chosen to continue as Hong Kong's Chief Executive by the Election Committee.¹¹ Strangely, no one was even able to secure a nomination to oppose him. Mr. Tung filed his nomination papers with the signatures of 714 of the 800 electors. ("Information...") Since 100 nominations are needed for a candidate to stand for election, Mr. Tung, in effect, secured his election by running unopposed! (Marshall) Also, the Election Committee did not hold a forum to meet and question candidates, as it had in 1996. (Ho)

The uncontested re-election of Tung has disappointed many Hong Kong citizens. Throughout all of 2001 there was only a 33 percent average approval rating for Mr. Tung. A poll in November 2001 showed 56 percent *not* in favor of Tung running for re-election, 16 percent in favor, and the rest undecided. (DeGolyer, "The Winter of Despair," p. 44) How can a person so disliked by the people get re-elected without opposition?

Unfortunately for Hong Kong's autonomy, many voices from China influenced Mr. Tung's re-election. Beijing's top envoy to Hong Kong, Jiang Enzhu, had stated that Mr. Tung needed to be re-elected to provide stability in the area. (Yeung) The fact that the Chinese may have a sizeable amount of influence over Mr. Tung's re-election is disturbing. President Jiang Zemin of China stated in December 2001 that Mr. Tung was his personal choice by saying, "I wish him to get re-elected. And I believe he will be re-elected." ("The People's Choice") The Two Systems concept of autonomy cannot be taken seriously if one system fully or partly controls the other system's important choices, making the phrase "high degree of autonomy" quite misleading.

¹¹ This committee is only representative of 165,000 people, which is less than three percent of the entire population. (Gillies)

Sometimes Mr. Tung appears to think more as a Chinese citizen than one of Hong Kong. In his first anniversary address, he spoke of dealing with approaching economic problems as follows:

We will not only benefit a great deal from our motherland's rapid development and prosperity; more so, we will learn from our motherland, whose dynamic and entrepreneurial spirit points to us the way to forge ahead. (DeGolyer, "The Civil Service," p. 88)

DeGolyer points out that Mr. Tung misses some rather obvious points that are plain to any observer. For example, Hong Kong is a vital bridge from China to the rest of the world and is doing far more to help China develop than vice versa. Entrepreneurial spirit is a trademark of Hong Kong, and to suggest that Hong Kong should look up to China is ludicrous. Hong Kong, not China, practices globalized, international-standard economic policies. Hong Kong, not China, has one of the world's highest per capita incomes, and people have fled China for Hong Kong, not vice versa, to escape from poverty and restrictions. (DeGolyer, "The Civil Service," pp. 88-90) Hong Kong, not China, has been ranked the freest economy of the world for the past eight years. (Olivastro) In other words, this comment by Mr. Tung is disconcerting because it looks away from the internationalism and pioneering spirit of the Hong Kong people and instead seems to have been made in order to appease China. Hong Kong has never looked back at China before for advice, and to do so now might well be disastrous.

An interesting requirement of the Basic Law is that a newly elected Chief Executive must be non-partisan and therefore have no affiliations with any political party. How can such a person govern effectively? With no allies in LegCo, the Chief Executive has no input from the people, and some say it seems that he does not have to answer to anyone. Worse yet, without a party any mistakes or dissatisfaction the Chief Executive creates will lead to criticism from all angles. He has no protection, no buffer from the winds of scrutiny. As Lee writes, "Let him be a

party man and, indeed, let him have his party, a ruling party that helps him govern. The Chief Executive must not and cannot be above politics.” (“Government and Political Parties,” p. 28) No liability or allegiance to a party may also be a factor in how often the Chief Executive meets with the LegCo. In the crucial first year of the handover, there was a span of seven months where Tung Chee-hwa met with LegCo a total of two times. (DeGolyer, “The Civil Service,” pp. 86-87)

Anson Chan’s Resignation

Another troubling sign was the abrupt resignation of Anson Chan, a stout defender of Hong Kong’s autonomy. She served Hong Kong for 38 years in the civil service, and she was the Chief Secretary, the head of the civil service, from 1993-2001. Her appointment as the Chief Secretary was the first time a non-British person had ever held the post. Due to her long record of speaking out candidly, she has been referred to by many as the conscience of Hong Kong. She has always been outspoken, especially on issues such as autonomy, the rule of law, and freedom of the press. Furthermore, her popularity among the people of Hong Kong has always been unparalleled. (DeGolyer, “The Winter of Despair,” p. 40)

As the handover loomed, her career seemed at an end. (Gilley) However, other sources from that time suggest that “if the people of Hong Kong had a free choice, they almost certainly would have elected Anson Chan” as their Chief Executive. (Fenby, p. 54) Due to her great popularity and success at her position, she was asked to remain at her post after the handover. In fact, Tung Chee-hwa invited her to postpone her retirement in January 2000 until June 2002 in light of a severe economic recession. (Chan, “Anson Chan’s Statement”)

In January 2001, Anson Chan suddenly resigned with no advance warning. The reason she offered was to spend more time with her family. (“Anson Chan Bowing Out”) There has

been much speculation about the real reasons for her abrupt departure, however. Proposed reasons include parties trying to disrupt relations between her and the Chief Executive, an actual rift between her and the Chief Executive, and an ultimatum from Beijing to resign. Interestingly, Mrs. Chan left her position without rejecting any of the theories alluded to above. However, two pieces of evidence can help us determine her true intentions. One piece is the landmark 1997 interview done by *Newsweek*'s Dorinda Elliot, and the other piece is her farewell address to the Asia Society in April 2001.

In the *Newsweek* interview from just before the handover, Chan directly addresses the question of whether she would quit if she felt too much control on her views. When asked if she would continue to speak out after the handover, she responded with:

Of course there might be issues that are points of principle, and as a matter of conscience, you feel you can't accept those decisions. And when that happens often enough, you start asking yourself, do I stay or do I go? And I think that most people would know what my answer would be. (Elliot)

This statement does not expressly say that she would resign under the conditions she described, but the words are tilted so strongly in this direction that I think her true feelings are clear. I believe Anson Chan indicated that she would rather resign when and if too many unacceptable decisions were made. Whether her feelings have remained unchanged since 1997 is unknown, but she is not known for changing her mind on issues concerning Hong Kong's autonomy.

The next piece of evidence comes in her 2001 farewell address to the Asia Society where Mrs. Chan carefully crafted an outline of her many concerns for Hong Kong.¹² However, sometimes what is not spoken is more important than what is spoken. This was her last major speech as Chief Secretary, and within a speech of nearly four thousand words there is *not a*

¹² The Asia Society is America's leading institution dedicated to fostering understanding of Asia and communication between Americans and the peoples of Asia and the Pacific. Its web page is <http://www.asiasociety.org>.

single mention of her family, her professed reason for retiring. Moreover, when I asked the Deputy Director of Administration, Miranda Chiu, in May 2001, whether Beijing had any influence in Chan's resignation, she replied, "Beijing kept its hands off Hong Kong's civil servants." (Chiu) She avoided the question, and did not even mention Mrs. Chan's name.

The absence of Anson Chan, so long the loud voice of her people, from Hong Kong's government will have a negative effect on the success of One Country, Two Systems. Her departure was too swift, too unplanned not to cause a wave of suspicion that she was forced to resign.

The Court of Final Appeal's Right of Abode Case¹³

In early 1999, the Court of Final Appeals (CFA) ruled that the children of parents who have the right to live in Hong Kong also have the right to live in Hong Kong. This ruling gave roughly a million people the right to migrate and live in Hong Kong, an already densely packed city of seven million. The possibility of so many people swarming across the border caused a public outcry. As a result, the Chief Executive wrote to the Central People's Government of China and pleaded that Hong Kong was "no longer capable of resolving the problem on its own." ("Chief Executive's Report...") There was no provision in the Basic Law that provided a way for the HKSAR to question its own CFA, and the final result was that the National People's Congress of China (NPC) voided the CFA's decision.

This controversial case has led many Hong Kong citizens to write of it as "a devastating example not just of Beijing's willingness to hobble Hong Kong's courts, but of Hong Kong officials' willingness to collaborate." (Bork) Many people within and outside of the country felt that the overturning of their highest court revoked the right to their own "final adjudication" and damaged the "high degree of autonomy" that they were given in the Basic Law. (Article 2) This

¹³ See Rees Hawkins' article for more detail on Hong Kong's rule of law and the CFA.

outrage, of course, was tamed by the fact that a horde of immigrants from China would not swamp Hong Kong.

However, further inspection reveals that the Court of Final Appeal violated the Basic Law. In its response, the NPC rightly asserts that the CFA had not sought an interpretation from the NPC in accordance with the Basic Law. (“Interpretation...”) Article 158(3) grants the courts of the HKSAR the right to interpret the Basic Law but insists that “before making their final judgments which are not appealable” the court must seek assistance from the NPC. (Basic Law) By all accounts, the very last thing Beijing wanted to do was to become involved, but it had no choice. On the day of her resignation as the Chief Secretary of the HKSAR, Anson Chan probably described the situation accurately when she said: “During the highly controversial CFA referral, Beijing’s much preferred option was for Hong Kong to settle the matter within the SAR. It’s a pity this was not constitutionally possible.” (Chan, “In Retrospect...”)

The 2007 Elections

In the year 2007 both the third Chief Executive and the fourth LegCo will be elected. The method of how each will be chosen is still to be decided, and this is obviously not good for stability. In her farewell speech, Anson Chan said that “the Basic Law makes it quite clear that the people of Hong Kong can decide for themselves how quickly to move towards the ultimate goal of universal suffrage.” She also wants a long, rational, structured national debate. (Chan “In Retrospect...”) After all they have been through and all they have accomplished, the assumption that the people of Hong Kong are not ready to choose their own leader or to decide how their leaders should be chosen is unfair.

Will Hong Kong simply form a select committee to decide what will be done as it has in the past? Will there be a public forum? When will all of the above happen? The result and the

way that Hong Kong decides its path is much anticipated as yet another sign of how much autonomy really exists in the city. The Chief Executive's views are probably critical in order to provide an impetus towards a decision, and many believe he is biased. A well-known quotation from Mr. Tung concerning universal suffrage and new election methods is "Slowly, slowly." (Bork) This may or may not be a true reflection of his thoughts, but the Chief Executive has certainly not put forth much tangible effort into speaking his mind on this issue.

When the issue of the elections is finally addressed, it will require the rewriting of Annex I and Annex II of the Basic Law, which outline the methods of selecting the Chief Executive and LegCo, respectively. There is also the possibility that the Basic Law itself may have to be amended. If so, the NPC must approve any changes. It is also unlikely the NPC will be able to stay outside the arena when Annex I and Annex II are revised. In contrast to their initial post-handover stance of non-involvement, the Chinese have certainly lost their neutrality, whether they are freely approving of the next Chief Executive or forced to deal with revisions of law, as in the CFA referral. Any involvement by the Chinese is, of course, an infringement upon the "high degree of autonomy" that Hong Kong is supposed to possess. (Basic Law, Article 2)

Falun Gong¹⁴

Another crucial issue for Hong Kong's autonomy is the civil rights of Falun Gong, a group that follows a mystical mixture of Taoism, Buddhism and breathing exercises. By all accounts, except claims from the CCP, the group is a non-violent sect that encourages breathing and meditation. (Jacob) However, the group has been banned from China since 1999 because it allegedly "is a cult that endangers Chinese society and people." ("Falun Gong: China's Dilemma") Chinese officials claim that the group has killed 1,500 people, caused 600 cases of

¹⁴ See Aaron Bellows' article in this volume for more details on the critical challenges facing this group.

mental illness, and that some members have deliberately set fire to themselves in suicide attempts. (Weaver)

In stark contrast to the Mainland's assertions, the Falun Gong operates peacefully within Hong Kong. They have held numerous public demonstrations and even an international meeting. Furthermore, Falun Gong members have been very punctual in informing the local authorities about meetings and gatherings. (Jacob) Still, many people in Hong Kong fear that the government is moving towards a ban. Martin Lee believes that the issue is simply a matter of basic human rights and fears for the group's religious freedom. He points out that all of the alleged burnings have occurred in China, not in Hong Kong. He also argues that to let China influence Hong Kong's decision is an example of the failure of the One Country, Two Systems model. (Lee) The Basic Law's infamous Article 23 on treason and subversion is vague and may need interpretation in the near future from the judiciary. (Basic Law) So how will this article be interpreted with respect to the Falun Gong? Once again, the impetus will probably come from the Chief Executive; and since the issue is becoming quite alarming to concerned observers, will probably be decided during Tung's second term. Indications from the Tung administration suggest that restrictions or bans of the Falun Gong will be enacted. First we saw reports that the government was comparing Falun Gong to Japanese cults and was looking at French anti-cult laws. Regina Ip, the Secretary of Security, has said that the group is "targeting the central government for attack" and must now be watched closely by the local authorities. (Bork) Next, Mr. Tung began calling Falun Gong an "evil cult," which mirrored contemporary Chinese views. ("Hong Kong's Falun Gong...") Recently, Chinese officials have begun branding Falun Gong as a "terrorist organization" to take advantage of the world's post-September 11th sentiments.

(Lam) Will Mr. Tung begin calling Falun Gong a terrorist organization as well? The future of the Falun Gong does not look bright, and this bodes ill for the autonomy of Hong Kong.

Difficulties in Amending the Basic Law

Yet another issue that I believe is challenging Hong Kong's autonomy is how much control it has in changing its Basic Law. During the formulation of the Basic Law, much of China's efforts seemed centered on "maintaining" Hong Kong as a capitalist enclave. (Basic Law, Preamble) To this day China still focuses on stability as the key to Hong Kong's continued success. "China wants to keep Hong Kong the same" claims Shiu Sin Por, Executive Director of the One Country, Two Systems Research Centre. However, I think that this preservation of its status quo might, ironically, cause Hong Kong's prosperity to wither. Hong Kong has always had a successful future by *adapting* to contemporary conditions. I believe that the Basic Law will stagnate Hong Kong politically and eventually economically if amendments are not made.

An autonomous self-government should be able to choose its own path and make decisions that are necessary for its survival. However, Articles 158 and 159 vest the powers of interpretation *and* amendment of the Basic Law in the NPC! Therefore, the Chinese government is able to completely control Hong Kong in these respects. Does Hong Kong have a way to change its government? The Basic Law states that in order to make a change to the Basic Law, the Chief Executive, two-thirds of the LegCo, two-thirds of the Deputies to the NPC, and a majority of the NPC must all approve. (Article 159(2)) This amendment process seems very time consuming, and would probably require many years from one end of the process to the other. Indeed, this is a very curious restriction on adaptation imposed on a society that has

historically thrived on change.¹⁵ If China decides not to allow Hong Kong to change via the NPC, how can Hong Kong have a high degree of autonomy?

The Future of One Country, Two Systems

A reporter from the *Apple Daily*, Kim Ming, believes that what may happen to Hong Kong is analogous to what happens to a frog in slowly boiling water. He thinks that the Hong Kong people will keep losing their freedoms a little at a time, and will not notice it happening, like the frog, until it is too late. Many doomsday scenarios like Kim's exist, and it is important to take heed of them in order to prevent their occurrence. The fact that the LegCo cannot create bills that are related to government policy, public expenditure, political structure, or government operations is vexing. In these important areas, it is reduced to only considering input from the Chief Executive. Furthermore, neither the LegCo nor the Chief Executive is fully chosen by the people. Martin Lee charges that the "trouble with the government is that it has power... [and] is not listening to the democratic demands of its people." (Lee) The Chief Executive needs to become a more effective leader and listen to the LegCo more than he has to date. The whole government should reconsider the idea of a Chief Executive without a political party, which leaves him or her blind to the citizen's needs and open to their dissent. The judicial system must communicate more clearly with the other branches of government to try and avoid another appeal of the Court of Final Appeals from happening. In addition, the entire community needs to establish a forum for thinking about the 2007 election methods. Since the ultimate aim of the Basic Law is to provide universal suffrage for both the Chief Executive and the LegCo, perhaps the HKSAR should let universal suffrage decide the pace of universal suffrage for 2007.

¹⁵ One of the key instruments in Hong Kong's successful history has been its readiness to adapt and transform itself to suit the needs of the contemporary time. The latest example is the transformation from a manufacturing powerhouse to one of the world's premier service economies.

However, if we follow the HKSAR's short history, there is a very real possibility that a small, select committee will make the momentous decision for the entire community.

Hong Kong has a crucial need for leaders who can rally the entire community to change the government. These leaders need to see that some short-term pain may be necessary for long-term survival, and they must convince the people. Otherwise Hong Kong will lose its edge and fall behind its economic competitors. ("Is Hong Kong Dying?") It needs leaders like Anson Chan who are not afraid to speak out. It needs to use China as it has in the past for economic gain, and to ignore more of the political undercurrents of the CCP, such as Falun Gong. However, economic woes have plagued Hong Kong ever since the Asian financial crisis began and still outweigh the political problems. The current political reign of Mr. Tung certainly has not been able to jolt the city out of its rut despite such advantages as its service and financial sectors and its large foreign exchange reserves. (Chen)

Fortunately the people of Hong Kong seem to be shifting out of the colonial mindset and have seen the importance of the public-decision making process. The current recession might help more people realize that change is needed as well as more public debates to decide the future of the city. (Loh, p. 72) There has been some talk of Hong Kong becoming "just another Chinese city," but hopefully Hong Kong's citizens are capable of maintaining their freedoms. (Mathews)

As the 1.2 billion people of the PRC restructure into a WTO nation, Hong Kong is the best-equipped salesperson to orchestrate the modernization of the Po River Delta, and probably all of southern China. Hong Kong will always be a major economic player, but One Country, Two Systems may prove to be a hindrance. However, let us not underestimate the drive and determination of the Hong Kong people. Although they still cannot directly elect their leader, it

is a far cry from the pre-1997 years when their governor was sent from the other side of the world. Although they still cannot directly elect all their representatives in LegCo, I doubt the voice of the Hong Kong people will continue to be ignored as 2007 approaches.

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